

III. REMARKS

Claims 1, 2, 5-9, 12-16 and 19-21 are pending in this application. Claims 3-4, 10-11 and 17-18 were previously cancelled. Claims 1, 2, 5-9, 12-16 and 19-21 are rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 1, 2, 5-9, 12-16 and 19-21 are rejected under 35 USC 103(a) as allegedly being unpatentable over Hertel-Szabadi (US 2003/0236692) (hereinafter referred to as “Hertel”) in view of Bansal et al. (US 2007/0219842) (hereinafter referred to as “Bansal”). Applicant respectfully traverses the 35 USC 112, first paragraph, and 35 USC 103(a) rejections for the reasons provided below.

Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the claims in a subsequent patent application that claims priority to the instant application.

A. REJECTION OF CLAIMS 1, 2, 5-9, 12-16 and 19-21 UNDER 35 USC 112, FIRST PARAGRAPH.

In the Office Action, claims 1, 2, 5-9, 12-16 and 19-21 are rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the written description requirement. Office Action p.3. More specifically, the Office alleges “There is not sufficient disclosure to satisfy the written description requirement, as “a splitting algorithm” is mentioned in the specification only in passing.” Id.

Applicant respectfully submits the Office's allegation is a mischaracterization of Applicant's disclosure including the specification and drawings.

Specifically, Fig. 1 of Applicant's disclosure "depicts a human resources assignment system for (sic) in accordance with the present invention." Specification p.4. Referring to Fig. 1, "Splitting Algorithm 22" is plainly labeled within the "People Allocation System 20".

Further, within the paragraph specifically disclosing the "People allocation system," the specification plainly states "Splitting algorithm 22 determines how time is to be allocated among multiple people performing the same role." Specification p.7. Within the context of this paragraph, no further disclosure was required to implement the claimed invention.

The selection and use of a "splitting algorithm" suitable for implementing the claimed invention would be well known to a person skilled in the art.

It is clear, the Office's rejection under 35 USC 112, first paragraph, is intimately tied to the 103(a) rejections as the Office relies in part upon its own definition of "splitting algorithm" to make its argument.

The Office states "Examiner has interpreted "a splitting algorithm" as any means that allocates time among multiple people performing the same role." Office Action p.3. However, this self-imposed definition defies standard definition of the word "algorithm."

American Heritage Dictionary defines "algorithm" as "A step-by-step problem-solving procedure, especially an established, recursive computational

procedure for solving a problem in a finite number of steps.”¹

Sufficient disclosure of “splitting algorithm” has been made by Applicant to comply with the requirements of 35 USC 112, first paragraph. Accordingly, Applicant respectfully requests withdrawal of this rejection.

B. REJECTION OF CLAIMS 1, 2, 5-9, 12-16 and 19-21 UNDER 35 USC 103(a)

In the Office Action, claims 1, 2, 5-9, 12-16 and 19-21 are rejected under 35 USC 103(a) as allegedly being unpatentable over Hertel in view of Bansal.

Claim 1 (and similarly claims 8 and 15) recite, *inter alia*, “a splitting algorithm that determines how time is to be allocated among multiple people performing the same role.” Hertel and Bansal do not teach the feature of a splitting algorithm to allocate time among multiple people performing the same role.

Applicant respectfully submits the Office has bootstrapped an unsupported allegation rejecting “a splitting algorithm” under 35 USC 112, first paragraph, and a self-imposed definition of “splitting algorithm” to assert support for their allegation in the prior art where there is none.

The Office admits Hertel does not teach “a splitting algorithm that determines how time is to be allocated among multiple people performing the same role.” The Office cites Fig. 2 and paragraphs [0058], [0067] and [0068] of

¹ algorithm. (n.d.). *The American Heritage® Dictionary of the English Language, Fourth Edition*. Retrieved September 16, 2008, from Dictionary.com website: <http://dictionary.reference.com/browse/algorithm>

Bansal to cure this deficiency.

However, a review of the cited references and Bansal in its entirety does not reveal the disclosure of an “algorithm” either by word or within the context of standard English definition whereby an “algorithm” is “a step-by-step problem-solving procedure, especially an established, recursive computational procedure for solving a problem in a finite number of steps.”

The passages of Bansal cited by the Office disclose that, “the data displayed in these cells may span multiple cells in the same row” and “data may be allowed to span multiple cells in the same column (e.g., if two or more field service personnel are needed or recommended for a particular activity).” Bansal [0058] I.5-11 and Fig. 2.

The aforementioned cited passages refer to a Planned Activities frame. Fig. 2. Bansal discloses an embodiment of the Planned Activities frame. [0056] I.1 and Fig. 2. The disclosed embodiment “displays a current schedule for the available (or selected) field service personnel”. (Field service personnel would constitute one “role”.) [0056] I.2-3. The disclosed embodiment of Bansal “displays data on x and y-axis to show planned activities versus time.” [0056] I.5-6. The disclosed embodiment of Bansal does not disclose a “splitting algorithm.”

Similarly, the aforementioned cited passages describe, *inter alia*, “the dispatcher may select values for one or more list boxes in Planned Activities frame in order to search for a list of qualifying field personnel” [0067] and “As shown in FIG.2, an activity may span multiple data cells horizontally” [0068]

without teaching “algorithm” specifically or “a step-by-step problem-solving procedure, especially an established, recursive computational procedure for solving a problem in a finite number of steps” generally.

The aforementioned cited passages in Bansal do not teach “splitting roles when multiple people are selected to fulfill a single role” and do not teach “a splitting algorithm that determines how time is to be allocated among multiple people performing the same role.”

Hertel fails to teach each and every feature of the claimed invention as amended. Bansal does not cure this deficiency for the reasons cited above. Thus, the claimed invention as amended is patentable over Hertel in view of Bansal. Accordingly, Applicant asserts that the bases for the Office’s rejection have been obviated and respectfully request withdrawal of the rejection.

With respect to the dependent claims, Applicant herein incorporates the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicant respectfully requests withdrawal of this rejection.

IV. CONCLUSION

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

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